

AMENDED IN ASSEMBLY APRIL 15, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2598

Introduced by Assembly Member Brownley

February 19, 2010

An act to add Section 6315 to the Public Resources Code, relating to tidelands and submerged lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 2598, as amended, Brownley. Tidelands and submerged lands: sea level action plan.

Existing law grants to various local entities the right, title, and interest of the State of California in and to certain tidelands and submerged lands in trust generally for purposes of commerce, navigation, and fisheries, and for other public trust purposes.

This bill would require each trustee of granted public trust lands to prepare a sea level action plan by July 1, 2011, and submit the plan to the Natural Resources Agency, the Governor's Office of Planning and Research, and the State Lands Commission. The bill would require the plan to include, among other things, an assessment of the impact of sea level rise on granted public trust lands, an estimate of the financial cost of this impact, and strategies to prevent or mitigate damage to development and infrastructure *and to protect and enhance habitat*.

By requiring a trustee of granted public trust lands, a local entity, to prepare a sea level action plan, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Upon admission to the United States, and as incident of its
4 sovereignty, the State of California received title to the tidelands,
5 submerged lands, and beds of navigable waterways within its
6 borders to be held subject to the public trust doctrine for statewide
7 public purposes, including commerce, navigation, fisheries,
8 preservation of lands in their natural state, and other recognized
9 public trust uses.

10 (b) Most of California's public ports, harbors, and marinas are
11 operated and managed on the state's public lands pursuant to a
12 legislative trust grant to a local or regional public entity.

13 (c) A trustee of granted public trust lands is charged with
14 managing the state's granted public trust lands on behalf of the
15 state for the benefit of all the people of California.

16 (d) California's ports, harbors, and marinas are a vital
17 component to the state's and the nation's economic and social
18 well-being.

19 (e) The effects of climate change and sea level rise will have
20 significant implications for the state's economic and social future.

21 (1) Approximately 80 percent of California's 33 million
22 residents live within 50 kilometers of the Pacific Ocean.

23 (2) The coastal economy contributes more than \$50 billion to
24 the State of California.

25 (3) Port activities alone in California generate an estimated \$7
26 billion in state and local tax revenues annually and employ more
27 than one-half million people in California. Nationwide more than
28 2 million jobs are connected to California ports.

1 (4) In 2007, more than 40 percent of the total containerized
2 cargo entering the United States arrived at California ports, and
3 almost 30 percent of the nation's exports left from California ports.

4 (5) In 2002, cargo operations shut down at west coast ports for
5 10 days, and the estimated loss to the national economy was \$1
6 billion per day.

7 SEC. 2. Section 6315 is added to the Public Resources Code,
8 to read:

9 6315. (a) By July 1, 2011, a trustee of granted public trust
10 lands shall prepare a sea level action plan. *The plan shall be*
11 *prepared in consideration of, and using relevant information*
12 *contained in, the 2009 California Climate Adaptation Strategy*
13 *prepared by the Natural Resources Agency, the Report on Sea*
14 *Level Rise Preparedness prepared by the State Lands Commission,*
15 *and any other related resource.* The plan shall include all of the
16 following:

17 (1) An assessment of the impact of sea level rise on granted
18 public trust lands.

19 (2) Maps showing the areas that may be affected by sea level
20 rise in the years 2050 and 2100. These maps shall include the
21 potential impacts of 100-year storm events.

22 (3) An estimate of the financial cost of the impact of sea level
23 rise on granted public trust lands. The estimate shall consider, but
24 is not limited to, both the potential cost of repair of damage to and
25 value of lost use of improvements and land and the anticipated
26 cost to prevent or mitigate potential damage.

27 (4) Strategies to prevent or mitigate damage to existing
28 development and infrastructure, *and to protect and enhance*
29 *undeveloped, vulnerable shoreline areas containing critical habitat*
30 *and opportunities for habitat creation, including wetland*
31 *restoration, habitat migration, or the creation of buffer zones on*
32 *granted public trust lands. When developing these strategies,*
33 *especially for along the coastline, a grantee shall consider feasible,*
34 *nonengineered measures, such as beach replenishment, coastal*
35 *setback lines, and managed retreat of structures.*

36 (5) Design standards that would avoid impacts to new
37 development and infrastructure.

38 (6) Implementation measures and timetables.

39 (b) In preparing a sea level action plan, a trustee shall conduct
40 at least one public hearing and consult with its lessees, local, state,

1 and federal agencies, and other users of the granted public trust
2 lands.

3 (c) A copy of the plan shall be submitted to the Natural
4 Resources Agency, the Governor's Office of Planning and Research
5 or its successor agency, and the State Lands Commission.

6 (d) The State Lands Commission may exempt a trustee of
7 granted public trust lands from this section or allow a trustee to
8 submit a modified sea level action plan if the commission finds
9 either of the following:

10 (1) None of the trustee's public trust lands is subject to sea level
11 rise by 2100.

12 (2) The financial burden on the trustee to provide the plan
13 substantially outweighs the benefit the plan would have in
14 preventing the potential economic and environmental harms
15 associated with sea level rise on the trustee's granted public trust
16 lands.

17 (e) A trustee of granted public trust lands may levy service
18 charges, fees, or assessments sufficient to pay for the preparation
19 of the plan.

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 a local agency or school district has the authority to levy service
23 charges, fees, or assessments sufficient to pay for the program or
24 level of service mandated by this act, within the meaning of Section
25 17556 of the Government Code.